THE HONOURABLE SRI JUSTICE V.ESWARAIAH

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W.P.No.22851 of 2007

Date: 29-10-2007

Between:

Building Construction All Workers
Welfare Association, Kothagudem,
Khammam District,
Rep.by its President, G.Ramchander …. Petitioner

And

The District Collector,
Khammam District
And others … Respondents

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O R D E R:

The petitioner questions the notice of the Tahsildar, Kothagudem in Rc.No.B 626/2007 dated 6.9.2007 passed under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act') on the directions of the Collector authorizing the Mandal Revenue Officer, Kothagudem to take over the physical possession of the Government land to an extent of 160 sq.yards in Survey No.143 of Kothagudem village.

A perusal of the said order goes to show that the petitioner made an application to regularize his encroachment of the said extent of 160 sq. yards as per the orders of the Government in G.O.Ms.No.373, Revenue Assignment Department, dated 24.3.2005. The said application of the petitioner was scrutinized, and as the petitioner failed to submit any documentary evidence, a show cause notice dated 25.4.2007 was issued, and the petitioner asked three months time to produce the documentary evidence, but failed to produce documentary evidence and, therefore, the impugned orders have been issued. Admittedly, against the said order an appeal lies under Section 10 of the Act before the Revenue Divisional Officer. As the impugned order is an appealable order, I am not inclined to express any opinion on the merits of the case.

Having regard to the facts and circumstances, as per the said Government order, no doubt the Government directed to regularize the encroachments in the said Survey No.143 also on a proper verification by the District Collector if the lands are in the shape of residential, commercial or industrial subject to the condition that free of cost in respect of the lands below 100 yards and 100 to 500 @ 8/- per square yard. But, in the absence of any encroachment of the Government land and such encroachment is in the shape of residential, commercial or industrial the question of regularizing any encroachment does not arise. To regular the encroachment, the person who is sought to be regularized shall prove that he has encroached and that the encroachment is in the shape of the residential, commercial or industrial. It is for the petitioner to establish his claim and entitlement as per the said order before the appellate authority.

The writ petition is dismissed with a liberty to avail the alternative remedies. There shall be no order as to costs.

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V. ESWARAIAH, J

29th October, 2007.
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